

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Samuel Der-Yeghiayan	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 4429	DATE	1/6/2005
CASE TITLE	Enis vs. Schomig		


[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons stated in the attached memorandum opinion, petitioner's request for a certificate of appealability is denied. Enter Memorandum Opinion.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.	<div style="text-align: center;">               13-3-44 9-10-2005           </div>	number of notices	<div style="text-align: center;"> <b>Document Number</b>               41           </div>
<input type="checkbox"/> No notices required.		JAN 07 2005	
<input type="checkbox"/> Notices mailed by judge's staff.		date docketed	
<input type="checkbox"/> Notified counsel by telephone.		948 docketing deputy initials	
<input checked="" type="checkbox"/> Docketing to mail notices.		date mailed notice	
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MW	courtroom deputy's initials	Date/time received in: central Clerk's Office*	

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**ANTHONY ENIS,**

**Petitioner,**

**JAMES SCHOMIG**

**Respondent .**

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**No. 01 C 4429**

**DOCKETED**  
JAN 07 2005

**MEMORANDUM OPINION**

SAMUEL DER-YEGHIAYAN, District Judge

This matter is before the court on Anthony Enis' ("Enis") request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c). For the reasons stated below, Enis' request for a certificate of appealability is denied.

**BACKGROUND**

Enis was convicted of the murder of Merlinda Entrata ("Entrata") and sentenced to death in a jury trial in the Circuit Court of Lake County, Illinois ("trial court"). After exhausting his state court remedies on direct appeal and in post-conviction proceedings, Enis filed a petition for writ of *habeas corpus*. On

September 29, 2004, in a memorandum opinion, we denied Enis' petition for writ of *habeas corpus*. *Enis v. Schomig*, 2004 WL 2203420 (N.D. Ill. 2004). Enis now seeks a certificate of appealability.

### **LEGAL STANDARD**

In order to appeal the denial of a petition for writ of *habeas corpus*, a petitioner must obtain a certificate of appealability. 28 U.S.C. § 2253(c); *Montgomery v. Davis*, 362 F.3d 956, 957 (7<sup>th</sup> Cir. 2004). A court should only issue a certificate of appealability "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner must also show that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDonnell*, 529 U.S. 473, 484 (2000)(quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).


### **DISCUSSION**

In Enis' request for a certificate of appealability, Enis argues that this court should issue a certificate of appealability for the following claims raised in his Petition: claim I, relating to trial court's denial of a motion to suppress; claim III,

relating to ineffective assistance of counsel allegations; claim IV, relating to an allegation of a due process violation; and claim VII, relating to an allegation of a *Brady* violation. On September 29, 2004, in a memorandum opinion, we denied Enis' petition for writ of *habeas corpus* and extensively addressed all of his claims, including claims I, III, IV, and VII. Enis, in his request for certificate of appealability, has attempted to rehash the same arguments raised in his petition for writ of *habeas corpus*. Enis has failed to make a substantial showing that he has been denied a constitutional right. Enis has also failed to show that reasonable jurists could agree or debate that claims I, III, IV, and VII of his petition for writ of *habeas corpus* should be granted. In addition, Enis has not presented any meritorious arguments that would indicate that the issues presented in claims I, III, IV, and VII deserve "encouragement to proceed further." *Slack*, 529 U.S. at 484. Therefore, we deny Enis' request for a certificate of appealability.

### CONCLUSION

Based on the foregoing, we deny Enis' request for a certificate of appealability.

  
Samuel Der-Yeghiayan  
United States District Court Judge

Dated: January 6, 2005